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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- :
MIRIAM BAUZA,

Case No.: 07 CIV 6542 (CLB)

Plaintiff,

- against -

MEDIACOM COMMUNICATIONS CORPORATION,

Defendant.

**AFFIRMATION OF JAMES J. CUTRO, ESQ. IN
OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

JAMES J. CUTRO, an attorney duly admitted to practice in the State of New York and before this Court, hereby affirms under the penalties of perjury as follows:

1. I am a partner in the law firm of Bonnist & Cutro, LLP, attorneys for plaintiff, Miriam Bauza ("Bauza" or "plaintiff") in the above action.
2. I am fully familiar with the facts and circumstances of this matter as set forth herein and submit this Affirmation in opposition to defendant's motion for summary judgment.
3. A true and correct copy of the relevant pages from the deposition of the plaintiff cited to by plaintiff in her accompanying Memorandum of Law and Local Rule 56.1 Statement is annexed hereto as Exhibit A.

4. A true and correct copy of the relevant pages from the deposition of the defendant's Senior Director of Human Resources, Judy Mills, cited to by plaintiff in her accompanying Memorandum of Law and Local Rule 56.1 Statement is annexed hereto as Exhibit B.

5. A true and correct copy of the relevant pages from the deposition of the defendant's Senior Payroll Manager, Regina Burgos, cited to by plaintiff in her accompanying Memorandum of Law and Local Rule 56.1 Statement is annexed hereto as Exhibit C.

6. A true and correct copy of the relevant pages from the deposition of the defendant's Senior Director of Finance, Joe Michulski, cited to by plaintiff in her accompanying Memorandum of Law and Local Rule 56.1 Statement is annexed hereto as Exhibit D.

7. Annexed hereto as Exhibit E is a letter from this firm to defendant's counsel seeking production of the following: "Documents, investigative reports, notes, and memoranda created by the defendant or others on the defendant's behalf based on the over-payment(s) made by Aetna to any employees of defendant other than plaintiff, including the individuals identified by Mr. Michulski and Ms. Mills." Defendant did not produce any documents, other than those produced by Aetna in response to plaintiff's subpoena.

8. Annexed hereto as Exhibit F is Plaintiff's Deposition Exhibit 5 from the deposition of Regina Burgos.

9. In response to plaintiff's subpoena to Aetna, Aetna reviewed its history of overpayment of short term disability payments to Mediacom employees and found eleven other incidents of overpayments to Mediacom employees who kept the overpayments. The subpoena to Aetna and the records of overpayments of STD benefits produced by Aetna are annexed hereto as Ex G.

10. Copies of all unreported decisions cited to in plaintiff's accompanying Memorandum of Law are annexed hereto for the Court's convenience as Exhibit H.

Dated: Rye Brook, New York
May 30, 2008

BONNIST & CUTRO, LLP

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